

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION**

TOTH ENTERPRISES II, P.A,	§	
WILLIAM FRANKLIN, M.D.;	§	
KATHERINE KELLER, D.O.;	§	
NATHAN PEKAR, M.D.; SHAWN	§	No. 1:23-CV-00542-RP
AGENBROAD-ELANDER, N.P.;	§	
BRITANY ADAMS, SARITA	§	
PRAJAPATI, M.D.; DIAGNOSTIC	§	
GESTALT, LLC, SHARON	§	
SHEPARD,	§	
<i>Plaintiffs</i>	§	
	§	
v.	§	
	§	
JEAN-PAUL FORAGE, LEWIS	§	
NICHOLS, CLAY ELLIS, LN	§	
PROFESSIONAL MANAGEMENT	§	
LLC, ALLIED LAB SOLUTIONS	§	
MANAGEMENT, LLC,	§	
<i>Defendants</i>	§	

ORDER

Plaintiffs ask the Court to compel Defendants to respond to three categories of discovery requests: “(1) ... records showing all the financial data from the laboratory services venture in which Plaintiffs and Defendants participated (the genesis of the subject dispute), including, but not limited to, the financial data (including collection activity reports) concerning the other management companies involved in the venture; (2) Defendants’ emails concerning the lab venture revenue, expenses, and payment distributions; and (3) records showing distributions from ‘MCJX Professional Services’ (a member of Defendant LN Professional Management, LLC d/b/a Medical Management Professional, herein ‘MMP’) to Defendant Clay Ellis

which relate to the laboratory services program.” Dkt. 65, at 2. The District Judge referred the motion to the undersigned for disposition. The Court set the motion for hearing, and after considering the parties’ filings, the record as a whole, the applicable law, and the arguments at that hearing, the Court announced its ruling, and the reasons for that ruling, on the record.

For the reasons stated on the record, the Court **GRANTS** Plaintiffs’ motion, Dkt. 65, in its entirety. The Court **OVERRULES** Defendants’ objections to RFPs 8, 10, 17, and 25-26 in Plaintiffs’ Second Set of Requests for Production, and RFP 2 in Plaintiffs’ Fourth Set of Requests for Production. The Court **ORDERS** Defendants to produce to Plaintiffs any non-privileged documents responsive to the various requests for production that are the subject of the motion, to the extent that they have not already been produced, on or before October 29, 2024.

The Court **FURTHER ORDERS** the parties to confer and file, within 14 days of this order, a joint proposed scheduling order addressing the remaining deadlines in the case, with the exception of the trial date, which the Court will set at a later date. The parties are to use Judge Pitman’s standard proposed scheduling order, modified as necessary.

SIGNED October 1, 2024.



DUSTIN M. HOWELL
UNITED STATES MAGISTRATE JUDGE